



U.S. Department of Justice
Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

July 29, 2001

MEMORANDUM FOR THE ATTORNEY GENERAL

FROM: Daniel J. Bryant *Δ98*
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SUBJECT: Weekly Report for July 29, 2001- August 3, 2001

THE WEEK AHEAD

- **Wen Ho Lee:** Current estimates are that the Bellows Report on the investigation into and draft FISA application concerning Dr. Wen Ho Lee will be ready for public release around August 13. A declassified version was provided to the Senate Judiciary Committee and Senate and House Intelligence Committees on July 12. The report is currently undergoing review to redact privacy and other material withholdable under the Freedom of Information Act; when that review is complete the public versions will be provided to these committees and may be released by the Department to the public. Senator Feinstein's staff has requested a briefing from FBI on the effect of a lack of interoperability of FBI databases on the Wen Ho Lee investigation; it is tentatively scheduled for July 31. (Walter)
- **Bankruptcy:** Some Senators are urging the House to appoint conferees to the Bankruptcy Reform legislation conference before the August recess. The Senate appointed conferees on July 17th. It is unclear at this time, whether pre-conference staff negotiations will occur even if the House does not officially appoint conferees before leaving town for recess. (Wilson)
- **FY 2002 Intelligence Authorization Legislation:** The Senate Intelligence Committee is finalizing its annual intelligence authorization bill and is scheduled to mark it up on September 6. The Department is working with the Committee on substantive provisions that are being considered, which will likely include changes to the Foreign Intelligence Surveillance Act and the Title III wiretap law, including provisions to broaden criminal sanctions for leaks of classified information. A meeting with an interagency group, organized by Office Intelligence Policy Review and attended by representatives from DOJ, DoD, NSA, CIA, and FBI, was held on July 26 to discuss possible Administration revisions to current FISA law. (Walter)

- **Immigration - Money Laundering:** The House International Relations Committee has requested a briefing by Customs, State, INS, DEA and FBI on proposals to expand authority to deny visas to persons engaged in money laundering. OLA is coordinating the briefing, which is scheduled for September 25, 2001. (Estrada)

THIS WEEK

- **Nominations:** Robert Mueller was nominated to be Director of the FBI on July 18. He has had courtesy visits with members of the Senate Judiciary Committee during the week of July 23, and his hearing began on July 30. (Scott-Finan)
- **Victim's Rights Amendment:** On July 30, Department representatives from OLA, the Solicitor General's Office, Office of Legal Policy, and Office of Legal Counsel will conduct a conference call with Senators Kyl and Feinstein staffers to discuss the amendment. (Coughlin)
- **Supreme Court Decision:** On July 30, staff from INS, the Office of the Deputy Attorney General and OLA briefed the House Immigration Subcommittee majority staff on implementation of the Supreme Court's decision in *Zadvydas v. Davis*, which directs the INS to release any persons in detention for whom there is no likelihood that a removal order will be affected within a reasonable time. (D. Burton)
- **The U.S. Population and Immigration:** On July 31st, the House Immigration Subcommittee will hold a hearing on the latest census figures and how immigration has affected U.S. population figures. No Department witness has been requested. (D. Burton).
- **Two Strikes and You're Out Child Protection Act of 2001 (H.R. 2146):** On July 31, the House Judiciary Subcommittee on Crime is scheduled to hold a hearing on, and then markup this legislation, which would mandate life imprisonment for certain recidivist aggravated sexual abusers of children. [REDACTED] We expect to produce a views letter shortly. (Owen, Jones)
- **Authorization Extension Of The Drug-Free Communities Support Program (H.R. 2291):** On July 31, the House is expected to pass this legislation. The Department testified before the House Government Reform Committee regarding this bill, which the Department generally supports despite concerns that insufficient funds have been made available for grant administration. (Owen)
- **Human Cloning Prohibition Act of 2001 (H.R. 2505):** On July 31, the House is scheduled to consider this legislation under suspension of the rules. The bill would

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amend title 18, United States Code, to make it a federal criminal offense to clone or to attempt to clone a human being. Civil penalties could also be imposed against violators. Late last week, the Office of Management and Budget circulated a Statement of Administration Policy on the legislation, which stated that the Administration supports the bill. (Jones)

- **Racial Profiling:** The Constitution Subcommittee of the Senate Judiciary Committee plans to hold a hearing on racial profiling on August 1. The Department has not been invited to testify. (Scott-Finan)
- **Product Packaging:** On August 1, Criminal Division's Deputy Assistant Attorney General Alice Fisher, is expected to testify before the Senate Judiciary Subcommittee on Antitrust, Business Rights and Competition regarding recently introduced legislation to prevent and punish the placement of hate-filled leaflets or notices in unopened consumer goods. (Coughlin).
- **Japanese POW Claims Legislation (H.R. 1198):** OLA and an attorney from the Civil Division will accompany the State Department to a briefing, tentatively scheduled for August 1, for a bipartisan group of congressional staff on the Administration's opposition to H.R. 1198. The bill, titled Justice for United States Prisoners of War Act of 2001, forbids U.S. courts from construing sections of the 1951 Treaty of Peace with Japan as constituting a waiver of claims by US serviceman against Japanese companies, among other things. While strongly supporting the sentiment of the legislation, the Administration strongly opposes it. (Wilson)
- **Criminal Prosecution of Leaks:** There is a Senate Intelligence Committee Member's briefing scheduled for August 1; CIA and FBI have been invited to provide a briefing on damage caused by leaks of classified information. They have also tentatively scheduled an open hearing on September 5 on proposed legislation to broaden criminal penalties for leaks of classified information by current or former government employees. You and the Director of Central Intelligence have been invited to testify, as have representatives from media groups and legal experts. You spoke with Senator Shelby about this provision, which he is strongly advocating, on July 26. During the call, you asked that he send the Department a copy of the provision; his staff did so on July 27 and the language has been circulated for review within the Department. The provision at issue is similar to a controversial provision that passed the House and Senate last year in the Intelligence Authorization bill, which resulted in that bill's veto by President Clinton after a vigorous lobbying campaign in the press by media and civil liberties groups. The media and civil liberties groups likely again will oppose vigorously this legislation. The White House has designated you as the lead in the Administration for this issue. (Walter)
- **Title III Wiretaps and FISA:** A joint Senate Judiciary and Senate Intelligence staff briefing on policies and practices regarding dual use of Title III wiretaps and Foreign Intelligence Surveillance Act (FISA) surveillance on the same target is scheduled for

August 3. Both staffs are interested in revising current law to allow broader sharing of wiretap and FISA information between law enforcement and the intelligence community; provisions revising FISA are likely to be inserted in the FY 2002 Intelligence Authorization Bill. (Walter)

- **FBI Computer Systems – Trilogy and Missing Laptops:** The Senate Judiciary Committee has requested a closed Members briefing on sensitive or classified matters that arose during FBI testimony at the full Committee hearing on July 18. A classified pre-briefing for a member of Senator Leahy's staff took place at FBI headquarters on July 20; the closed Members briefing is in the process of being scheduled. (Walter)
- **FBI Oversight:** OLA is continuing to confer with House Government Reform Committee staff about the status of their document request relating to the FBI's handling of informants in Boston. Additional documents responsive to their request will be produced this week. (F. Burton)
- **FBI Whistleblowers:** On July 27, the Senate Judiciary Committee requested redacted copies of the documents that we had previously made available to the Committee for review, with a non-disclosure agreement, relating to their oversight of the FBI, and particularly FBI management. The Committee is particularly interested in documents from the Justice Management Division (JMD) relating to disciplinary recommendations and decisions arising from Ruby Ridge. OLA staff are conferring with JMD representatives about how best to protect the privacy and deliberative process interests implicated by these documents, while accommodating the Committee's information needs to the maximum extent possible. On July 25, Committee staff asked the Department to permit Senator Specter's Committee staff to review portions of the documents, but Senator Specter's staff did not in fact pursue this request, perhaps because they were unwilling or unable to assure compliance with the Committee's non-disclosure agreement. (F. Burton)
- **Mark Middleton:** This week, the Department will respond to a House Government Reform Committee request for White House Credit Union records relating to Mark Middleton, depending upon guidance from the Criminal Division about whether the provision of such records is prohibited by Rule 6(e) of the Federal Rules of Criminal Procedure and the Right to Financial Privacy Act. (F. Burton)
- **Roger Clinton:** This week, the Department will respond to a House Government Reform Committee request for records relating to investigations of Roger Clinton from January 20, 1993 to January 20, 2001, subject to objections from the Criminal Division. (F. Burton)
- **Dewine Immigration Briefing:** Senator Dewine's office has requested a briefing on several high-profile immigration matters including, long-term detention and

unaccompanied alien minors. The meeting will likely be set for later this week. (D. Burton)

LAST WEEK

- **Department of Justice Authorization Act (H.R. 2215):** On July 23, the Department's reauthorization bill passed the House by voice vote under suspension of the rules. A manager's amendment was adopted on the floor. The Senate Judiciary Committee is expected to begin consideration of a reauthorization bill soon. (Owen)
- **Elder Fraud/Medicare Enforcement:** On July 23, Department representatives met with staff of the Senate Special Committee on Aging regarding Civil Division Acting Assistant Attorney General Stuart Schiffer's testimony on July 26, before the Committee's hearing on "Medicare Enforcement Actions: The Federal Government's Anti-Fraud Efforts." Further hearings are expected. (Coughlin)
- **Asset Forfeiture:** On July 23, the House Financial Services Committee was briefed by staff from the Criminal Division, FBI, DEA and OLA, on the use of criminal forfeiture in counterfeiting cases. (Daley)
- **Trafficking in Persons:** On July 18, you held a press conference to announce delivery to the Federal Register of a regulation which provides for benefits and services to victims of trafficking under section 107(c) of the Victims of Trafficking and Violence Protection Act of 2000. Additionally, on July 23, you granted humanitarian parole to Phanupong "Got" Khaisri, a 4-year-old victim of trafficking persons, and further directed the INS to adjudicate his application for a T visa quickly, once the regulations applicable to such a visa are completed. (D. Burton)
- **Nominations:** The Senate Judiciary Committee chaired by Senator Feingold, held a hearing on July 24, to consider the nominations of Deborah Daniels, to be Assistant Attorney General for the Office of Justice Programs; Sarah V. Hart, to be Director of the National Institute of Justice; and William Riley, to be a United States Circuit Judge for the Eighth Circuit. All three nominees have received written questions following their hearing.

The nominations of Asa Hutchinson, to be Administrator of DEA, and Jim Ziglar, to be Commissioner of INS, were approved by the Senate Judiciary Committee, each by a roll call vote of 19-0, on July 26.

The Senate Governmental Affairs Committee held a hearing on the nomination of Lynn Leibovitz, to be an Associate Judge of the Superior Court of the District of Columbia, on July 26. (Scott-Finan)
- **FBI Missing Laptops:** Ken Senser, the FBI's head of information security, gave a classified briefing to House Intelligence Committee staff on the chronology of events and

steps taken to date in this matter on July 19, and also testified on the matter before the Senate Judiciary Committee on July 18. A similar briefing for Senate Intelligence Committee staff was held on July 23. (Walter)

- **The Anti-Drug Network (Adnet):** On July 24, the House Government Reform Subcommittee on National Security a hearing on Adnet, as an example of interagency electronic data sharing, and the impact of data sharing on national security. Criminal Division Deputy Assistant Attorney General Bruce Swartz testified as the Department's witness. (Walter)
- **The Unlawful Internet Gambling Funding Prohibition Act (H.R. 556):** On July 24, the House Financial Services Committee held a hearing on this legislation, which would prohibit the use of financial instruments for the purpose of gambling. The Department has been asked to provide written testimony for the record. There is currently no official Administration position on this legislation. (Daley)
- **Born-Alive Infants (H.R. 2175):** On July 24, the House Judiciary Committee approved H.R. 2175, which was introduced by Representative Steve Chabot, and would expand the definitions of "person," "human being," "child," and "individual," to include "born-alive infant." The Department has taken no position on this legislation. (D. Burton)
- **Refugee Status for Vietnamese Refugees (H.R. 1840):** On July 24, the House Judiciary Committee postponed plans to markup legislation, which would extend the eligibility for refugee status for unmarried children of certain Vietnamese refugees. Staff from the Departments of Justice and State are working with the Committee and Representative Tom Davis, the bill's sponsor, on possible technical amendments. (D. Burton)
- **Spousal Work Authorization:** On July 24, the House Judiciary Committee approved legislation to give work authorization to spouses of E and L visa holders. This legislation may be considered on the House floor very soon. (D. Burton)
- **American Servicemember's Protection Act (H.R. 1794, S. 857):** On July 24 and July 30, the Department joined other executive branch agencies in briefing House and Senate Foreign Relations (Republican) staff regarding constitutional and other concerns related to the this legislation, which would limit the United States' cooperation with the International Criminal Court. (Owen)
- **Deliberative Documents:** On July 25, the Department was advised by House Government Reform Committee staff that the Chairman will soon send a strong letter, insisting that the Department produce the memorandum from the former Chief of the Campaign Financing Task Force, Robert Conrad, to the former Attorney General, conveying Mr. Conrad's advice about whether she should seek the appointment of a statutory Independent Counsel relating to then Vice President Gore. The Committee also may issue a subpoena to the Attorney General to appear at a hearing on this issue.

Representatives from the Office of Legal Counsel are conferring with the White House Counsel's Office about the most appropriate response to the threatened subpoena. (F. Burton)

- **24/7 Network Briefing:** On July 25, at the request of the House Judiciary Subcommittee on Crime, the Department provided a basic briefing on what we are doing to establish an international network of cyber crime experts available 24 hours-a-day and seven days-a-week. (Daley)
- **School District Websites:** On July 25, at the request of staff for Representative Ferguson, the Department and FBI representatives met with them and the House Judiciary Subcommittee on Crime staff regarding their interest in preventing websites from being used to threaten school districts. (Daley)
- **The Child Sex Crimes Wiretapping Act (H.R. 1877):** On July 25, staff from the Office of the Deputy Attorney General and the FBI briefed Representative Barr's staff regarding this legislation. Representative Barr was concerned about expanding the Department's wiretap authority. (Owen)
- **National Infrastructure Protection Center:** On July 25, the Senate Judiciary Subcommittee on Terrorism and Technology held a hearing on protecting our nation's critical infrastructure. The FBI testified. (Daley)
- **Hate Crimes (H.R. 625):** On July 26, the Senate Judiciary Committee approved S. 625, a bill to provide federal assistance to states and local jurisdictions to prosecute hate crimes, and for other purposes, by a vote of 12-7, with Senators Specter and DeWine voting for the measure. A Hatch amendment was defeated 7-12. (Scott-Finan)
- **Federal Courts Improvement Act (H.R. 2522):** The House Judiciary Subcommittee on the Courts held a hearing on July 26, on this omnibus bill affecting administration of the Federal Courts, which includes technical and other changes. The Administration has not yet stated its position. (Owen)
- **Extension of Section 245(i) (S.778):** On Thursday, July 26, the Senate Judiciary Committee approved language negotiated by Senator Kyl and Kennedy, which would extend application deadline for relief to April 30, 2002, and require that an alien establish his qualifying family or employment relationship by enactment of the provision. (D. Burton)
- **FBI Oversight -- FBI Review Contract Award:** A conference call with a representative from JMD and a member of the Senate Judiciary Committee majority staff was held on July 27 to discuss the procedure used to award the contract and general guidelines to the

contractor for performance of this review of the FBI. Documents requested during the call are being reviewed for release to the Committee this week. (Walter)

- **Pardons and Parole:** On July 27, House Government Reform Committee staff conducted a telephone interview with a former Parole Commission official who attended meetings and conferred with Roger Clinton, in connection with his unsuccessful efforts to obtain parole for two inmates. The individual explained to Committee staff that Mr. Clinton's contacts had no effect on the Commission's decisions in 1999 regarding the inmates because Commission staff assured that the Commissioners themselves were never informed about them. He also advised the staff about his cooperation with the FBI's investigation of Mr. Clinton's contacts, which eventually were concluded without further action, apparently due to the insufficiency of the evidence. OLA staff participated in the interview; it is not clear what, if any, additional action that Committee will undertake regarding this matter. (F. Burton)